



GUIDE 17-3

Pipeline and Surface Rights**A Guide for Landowners and Occupants**

Updated November 1996



A company has approached you and wants to build a pipeline across your land. You and the company will be negotiating an agreement on routing, construction and reclamation of the pipeline right-of-way.



The first thing most landowners want to know is: "What are my rights?" and "What choices do I have?" *First, you have the right to be fully informed at each step of the process.*

This booklet is intended to help you in your negotiations concerning a proposed pipeline and to understand your rights and choices as a landowner/occupant. It describes the company's obligations under provincial legislation, and answers common questions about pipeline applications. (Please note that some pipelines are not under EUB jurisdiction. For example, low-pressure gas distribution lines are under Alberta Transportation and Utilities and interprovincial pipelines are regulated by the National Energy Board.)

This booklet answers the most common questions we receive at the EUB from landowners. If you have additional questions, or you need more information, please contact:

EUB Facilities Division, Applications Group
640 - 5 Avenue SW
Calgary, Alberta T2P 3G4
(403) 297-4369*

* To call toll-free, dial 310-0000 and ask the RITE operator to connect you to this number.

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EUB CONTACTS AND AREA OFFICES

The Alberta Energy and Utilities Board (EUB)
ensures that development of Alberta's energy
resources takes place in a
responsible manner in the public
interest and that Albertans receive
safe and efficient utility service at
rates that are fair and reasonable.

Part 1 Understanding your Rights

The right to survey on your land

One of the first steps in selecting a route for the pipeline is a survey. Under the Alberta Surveys Act, the surveyor has the right to enter your property after making a reasonable attempt to notify you. It is common practice and common courtesy for a company representative to call on you before surveying.

The easement or right-of-way agreement

A pipeline easement, or right-of-way agreement, is a legal document that records an agreement between a landowner and a pipeline company. It should state the rights and obligations of the pipeline company and the landowner with respect to the right-of-way for the pipeline. An easement may be obtained prior to EUB approval of an application to construct a pipeline.

If you have an objection related to the proposed pipeline, you should send a letter to the company detailing your grievances. (The EUB does not deal with compensation issues related to right-of-way acquisition or damages. These issues are dealt with through the Surface Rights Board, if necessary, **after** a pipeline permit has been issued by the EUB).

If various parties have used every effort possible to resolve their differences and failed, an EUB public hearing may be scheduled to hear the outstanding issues with notice given to affected landowners and occupants. The hearing process is described in Part 5 of this booklet.

The right to information

You have the right to be fully informed about what the company plans to do on your land.

Under EUB regulations and guidelines, the company must provide all the information you need to fully understand what is being proposed for your land. The company has the following obligations:

- to give you a general description of the pipeline project, and tell you how it will impact your land
- to make sure you fully understand the proposed construction schedule and method
- to make sure you are familiar with the substance to be transported by the pipeline and its characteristics
- to answer your concerns on what the company is proposing in terms of soil handling and reclamation technique
- any other concerns related to the construction of the pipeline across your land.

There are a number of EUB field offices and the head office in Calgary with staff available to answer your questions. Their addresses and telephone numbers are at the back of this booklet.

Part 2 The Application Process

The application process ensures the proposed project complies with regulatory requirements.

To build a pipeline, an energy company must first file an application to obtain approval from the EUB. The application consists of a check sheet on which the company must supply information about the proposed pipeline, and commit to building the pipeline in compliance with the Pipeline Act and Regulations.

If, for any reason, the company proposes to deviate from the Act and Regulations, it must supply additional information to the EUB, which must be satisfied that the proposal is acceptable.

In addition, a portion of all applications undergo an audit for compliance after approval. If the company is not complying, then it is penalized.

At the application stage, the company must conduct a public consultation program. This program will vary depending on the project, but the company must at minimum notify all landowners and occupants along the proposed pipeline right-of-way. If there are no outstanding public or industry concerns and the application is technically satisfactory, a

permit may be issued.

Part 3 Selecting a Pipeline Location

Make sure you fully understand the company's soil handling and reclamation methods.

The EUB requires that the company talk to the local Alberta Environmental Protection (AEP) Conservation and Reclamation Officer prior to submitting a pipeline application to the EUB. If you have concerns relating to soil conservation or reclamation, please contact the Reclamation Officer directly. To obtain a list of AEP offices in your area, contact the Land Reclamation Division, Field Services Branch of the Department of Environmental Protection and ask for *Informational Letter 94-5*.

If you believe the company is not doing an adequate job of soil handling and conservation or clean-up following construction, you should discuss your concerns with the company. If you are still not satisfied, contact the regional conservation and reclamation office for assistance. For more information, contact the AEP reclamation division.

Make sure any other questions you have about the construction are addressed.

If you are concerned with issues such as weed control during construction of the pipeline, you should contact the company personnel in the field or head office and AEPs Reclamation officer. If your concerns remain unresolved, you should then contact the local area or head office of the EUB.

Part 4 Negotiation

Open two-way negotiations usually result in an agreement that meets the needs of both parties.

After you begin negotiations with the company, various situations may arise. You may agree or disagree on the location of the pipeline or the method of construction. You may agree or disagree on the compensation you should receive for the right-of-way and/or damages.

Open two-way negotiations usually result in an agreement that meets the needs of both parties. The EUB encourages a negotiated agreement and recommends that all commitments be confirmed in writing. If both parties live up to their commitments, a good working relationship can be maintained for the life of the pipeline.

If you have no objection to the issuing of a pipeline permit, the EUB may proceed. If you object to a proposed pipeline under the jurisdiction of the EUB, then you should send a letter to the applicant and the EUB stating your objections in detail. (Compensation does not fall under EUB jurisdiction and should be referred to the Surface Rights Board.) Matters such as location, safety, construction and timing fall under EUB jurisdiction

If the applicant cannot resolve outstanding issues, the application may be heard at an EUB public hearing. Notice of the hearing will be sent directly to you and other affected landowners and occupants. Newspaper advertising is also possible.

It is in your best interest to have someone represent your affairs when you are absent. If you go away from home and do not arrange for someone to represent you or notify you, then you may miss your opportunity to be heard at a public hearing.

Note: Section 43 of the Energy Resources Conservation Act allows an affected person to object to a project 30 days after the permit has been issued.

Part 5 The EUB Public Hearing Process

At a hearing there is an opportunity for you to express your opinions and give evidence to the EUB regarding the proposed pipeline project.

Normally, a panel of three EUB Board Members or appointed examiners hears evidence from you and the applicant. You or the applicant may or may not wish to be represented by a lawyer.

The panel does not usually make a decision at the hearing. Instead, it will defer the decision while it considers the evidence. Later, a written report will be issued giving the decision and the reasons for it. The report will be made public and given to all hearing participants.

What happens after the public hearing process?

If the decision is to issue the pipeline permit, then the company can apply for a right-of-entry order through the Surface Rights Board.

Once a right-of-entry order is issued, the company can construct the pipeline on your land. If compensation is an issue, it is dealt with by the Surface Rights Board after the EUB pipeline approval is issued.

Is my case suitable for an EUB public hearing?

If the company has not addressed concerns to your satisfaction regarding pipeline location, safety, construction, timing of construction or environmental impact, an EUB hearing provides an opportunity to express your views. They are evaluated together with other evidence about the proposed pipeline. The EUB has the responsibility to carefully weigh all evidence presented by each participant. If you do not take the opportunity to express your views, the hearing panel may not have a full understanding of your concerns.

Some pipelines also require approval of Alberta Environmental Protection (AEP) and these applications must be advertised in the newspaper. You can object to the application, but presently AEP does not have a formal hearing process to hear your objection.

If you are making a presentation at a hearing, you should prepare a written submission describing your concerns.

The Local Interveners' Costs Regulations allow reasonable cost such as lawyers' fees to normally be reimbursed.

Payment for right-of-way, crop loss and other damages are dealt with by the Surface Rights Board.

Note: Section 42 of the Energy Resources Conservation Act allows the EUB to review or change an order or may rehear an application before deciding it.

USEFUL REFERENCES

The following are available from the EUB Information Services Section at (403) 297-8190:*

1. Guide 57-1a **The EUB and Energy Regulation**
 2. Guide 57-1 b **The EUB and Utility Regulation**
 3. Enerfacts #2 **Having Your Say at an EUB Hearing**
 4. Enerfacts #3 **Inspections and Enforcement in Petroleum Development in Alberta**
 5. Enerfacts #7 **Keeping Back From Energy Developments**
 6. **Hearings and Inquiries**, Guide 29
 7. **Guidelines Respecting Applications for Local Interveners' Costs Awards**, Guide 31
 8. **Negotiating Surface Rights**, Alberta Agriculture, Food and Rural Development, Farmers' Advocate
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OTHER AGENCIES TO HELP YOU

SURFACE RIGHTS BOARD

For more information about right-of-entry

REGISTRAR OF LAND AGENTS

The registrar has statutory powers to regulate the conduct of land agents employed in the acquisition of land. If you have any concerns about the

compensation, contact:

18th floor
Phipps-McKinnon Building
10020- 101A Avenue
EDMONTON, Alberta
T5J 3G2
Telephone: 427-2444*

FARMERS' ADVOCATE

For advice on resolving land-related problems,
contact:

3rd floor, Room 305
J. G. O'Donoghue Building
7000- 113 St.
EDMONTON, Alberta
T6H 5T6
Telephone: 427-2434*

LAND RECLAMATION DIVISION, FIELD SERVICES BRANCH, ALBERTA ENVIRONMENTAL PROTECTION

The Field Services Branch has statutory powers to
enforce conservation and reclamation for specified
land activities, including well-site, pipelines, and
associated facilities.

Contact:

3rd floor, Oxbridge Place
9820 - 106 St
EDMONTON, Alberta
T5K 2J6
Telephone: 427-6212*

* To call toll-free, dial 310-0000 and ask the RITE operator to connect you to this number.

treatment you have experienced, contact the
registrar at:

5th floor, South Tower
Petroleum Plaza
9915 - 108 St.
EDMONTON, Alberta
T5K 2G8
Telephone: 427-6584*

HYDROGEOLOGY BRANCH

The Hydrogeology Branch will investigate
complaints respecting possible contamination of
water wells.

Hydrogeology Branch
Alberta Environment
14 floor, 10405 Jasper Avenue
EDMONTON, Alberta
T5J 3N4
Telephone: 427-6230*

EUB CONTACTS AND FIELD CENTRES

Alberta Energy and Utilities Board - Head Office

For more information about a specific, proposed pipeline,
contact:

EUB Field Centres

Bonnyville
Telephone: (403) 826-5352

Facilities Division,
Applications Group
Telephone: (403) 297-4369*

or

Facilities Division,
Field Surveillance Group
Telephone: 297-8316*
640 - 5 Avenue SW
Calgary, Alberta
T2P 3G4

Box 5169
49 Street & 50 Avenue
Bonnyville, Alberta
T9N 2G4

Drayton Valley
Telephone: (403) 542-5182
Box 7048
2nd floor
5136 - 51 Avenue
Drayton Valley, Alberta
T0E 0M0

St. Albert
Telephone: (403) 460-3800*
30 Sir Winston Churchill Avenue
St. Albert, Alberta
T8N 3A3

Grande Prairie
Telephone: (403) 538-5138*
#200, 11209 - 98 Avenue
Grande Prairie, Alberta
T8V 5A5

Medicine Hat
Telephone: (403) 529-3626*
#302, 346 - 3 Street SE
Medicine Hat, Alberta
T1A 0G7

Red Deer
Telephone: (403) 340-5454*
2nd Floor, 4920 - 51 Street
Red Deer, Alberta
T4N 6K8

Wainwright
Telephone: (403) 842-7570*
801 - 2 Avenue
Wainwright, Alberta
T9W 1C4

Calgary
Telephone: (403) 297-8303*
640 - 5 Avenue SW
Calgary, Alberta
T2P 3G4

* To call toll-free, dial 310-0000 and ask the RITE operator to connect you to this number.

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